



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 1

1 CONGRESS STREET, SUITE 1100
BOSTON, MASSACHUSETTS 02114-2023

February 9, 2004

Dawn Gallagher, Commissioner
Maine Department of Environmental Protection
#17 State House Station
Augusta, Maine 04333-0017

SUBJECT: EPA Review of Chapter 257 Water Quality Standard Revision

Dear Commissioner Gallagher:

The Environmental Protection Agency (EPA) has completed its review of Chapter 257 (LD 1137), "An Act Regarding Riverine Impoundments", as required by 33 U.S.C. 1313(c). This legislative chapter revised the surface water quality standards administered by the DEP's Bureau of Land & Water Quality, and was certified by Maine's Assistant Attorney General in the Natural Resources Division on December 17, 2003 as having been duly adopted pursuant to state law (passed by the Maine Legislature on May 20, 2003, and signed into law by the Governor on May 23, 2003). EPA is continuing its review of Chapter 418 and the other chapters from the Department's August 26, 2003 submittal of legislation enacted by the First Regular Session of the 121st Legislature.

I hereby approve the revised water quality standards in Chapter 257. This approval is made pursuant to Section 303(c)(2) of the Clean Water Act and 40 CFR Part 131, and is based on my determination that the approved revisions are consistent with the requirements of Section 303 of the Act. In making this approval, we have a few comments concerning Chapter 257 (see attachment A).

EPA's approval of Maine's surface water standards revisions does not extend to waters that are within Indian territories and lands. EPA is taking no action to approve or disapprove the State's standards revisions with respect to those waters at this time. EPA will retain responsibility under Section 303(d) for those waters.

My staff and I look forward to continued cooperation with the ME DEP in exercising our shared responsibility of implementing the water quality standard requirements under the CWA. If you have any questions on these issues, please contact Steve Silva, Director of EPA New England Maine Program, at 617-918-1561.

Sincerely,

A handwritten signature in dark ink, appearing to read "Linda M. Murphy". The signature is fluid and cursive, with the first name "Linda" being more prominent.

Linda M. Murphy, Director
Office of Ecosystem Protection

Enclosures

cc: Andrew Fisk, ME DEP
David Courtemanch, ME DEP
Brian Kavanah, ME DEP
Dana Murch, ME DEP
Vernon Lang, USF&WS
Mary Colligan, NMFS
Peter Colossi, NMFS
Edward Hanlon, EPA HQ

Comments on Chapter 257

Chapter 257 *An Act Regarding Riverine Impoundments*

EPA has reviewed Chapter 257, and would like to point out that the narrative standard in the final paragraph is an important confirmation that the 2003 revisions are consistent with the CWA ("dissolved oxygen concentration in existing riverine impoundments must be sufficient to support existing and designated uses of these waters"). It is our understanding that ME DEP intends to monitor dissolved oxygen (to within 0.5 m of the bottom) for the entire water column of any impoundment, and that compliance with the narrative criterion (as set forth in the final paragraph of sub-section 13 and quoted above) will still be determined throughout the waterbody including where compliance with the numeric criteria is not measured (as set forth in sub-sections 13. B. and C.), to ensure that the waterbody as a whole will attain existing and designated uses. Application of the narrative criterion for riverine impoundments below the point of thermal stratification and in areas of inhibited mixing due to natural topographical features is important to assure that water quality impacts are assessed and addressed in determining whether water quality standards are met in the impoundment as a whole.